REMARKS

This is in response to the Office Action mailed September 25, 2008. Claim 1 has been amended. The claim elements, "and wherein the system is substantially free of nonoxidizable colorants, and further wherein the system minimizes the production of chlorine dioxide formation as compared to if the nitrogenous stabilizer were absent" were included in the first claim. Support for Applicants' claim amendments is found throughout the specification in that only oxidizable colorants are included in Applicant's formulations. Further support is found in the specification on page 4 line 24 through page 5 line 9 where reduction of chlorine dioxide formation is discussed. No new matter is added with the amendment.

Claims 1-16, 18-28, and 31-48 are pending. Claims 20-22, 31, 38, 39, 41-48 are withdrawn from consideration. Claims 17, 29-30, are cancelled.

Rejection under 35 U.S.C. 103

Claims 1-6, 10-13, 18, 19, 26-28, 31-34 and 37 14 were rejected under 35 USC 103 as being unpatentable over Roozdar US 5,380,518 and Morelli US 6,524,624. Applicants again traverse this rejection.

The combination of these references is incorrect. Roozdar teaches away from the objective of Morelli '624. As Applicants previously noted, Roozdar aims to significantly increase the amount of chlorine dioxide that is produced to in turn minimize residual chlorite ion (see Roozdar Col. 4 lines 20-23). Also note the title of Roozdar, "Method for the Production of Chlorine Dioxide." In contrast, Morelli '624 aims to minimize the amount of chlorine dioxide formed. It is improper to combine references where the references teach away from their combination. *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983).

Roozdar states in Column 5 lines 9 – 18 that the unexpected result of the invention is faster and more efficient production of chlorine dioxide than a similar system without a disproportionating agent (hydroxyl free aldehyde). Contrast this to the invention at hand where color loss is proportional to the rate and level of chlorine dioxide generation. Practicing Roozdar's invention would result in rapid color loss. Roozdar therefore teaches away from the claimed invention.

Not only do these references teach away from each other, but Applicants have amended claim 1 to include the element that chlorine dioxide generation is minimized. The skilled artisan would not look to art teaching how to maximize chlorine dioxide formation (Roozdar) when formulating a composition aimed at minimizing generation of the dangerous gas. Applicants' claim amendments also render this combination improper.

Applicants hereby request withdrawal of the rejection based on the combination of Roozdar and Morelli and solicit allowance of the rejected claims.

The Examiner relied upon Pastore US 6,071,483 in combination with Morelli ('624 to reject claims 1-6, 10-13, 31-35 and 37 under 35USC 103(a). Applicants respectfully traverse this rejection for the same reasons outlined above.

Pastore, similarly to Roozdar above, teaches away from Morelli '624. Pastore produces chlorine dioxide and requires a vessel to neutralize the noxious gas. As with Roozdar, the title of Pastore suggests quite the opposite of Morelli's intent to minimize chlorine dioxide formation. Pastore is entitled, "Reactor Vessel and Process for Preparing a Controlled-Dosage Chlorine Dioxide Solution." In contrast, as already stated, Morelli's '624 patent aims to minimize production of chlorine dioxide. Due to these diametrically opposed goals, it is improper to combine references where the references teach away from their combination. *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983).

As recited above, not only do these references teach away from each other, but Applicants have amended claim 1 to include the element that chlorine dioxide generation is minimized. One skilled in the art would not look to Pastore that teaches how to *maximize* chlorine dioxide formation when formulating a composition aimed at *minimizing* generation of the chlorine dioxide. Applicants' claim amendments also render this combination improper.

Applicants hereby solicit the Examiner to withdraw the rejection based on the combination of Pastore and Morelli '624 and respectfully request allowance of the rejected claims.

Richter US 6,379,685 was relied upon to reject claims 1-16, 18, 19, 23-28 and 31-37 under 35USC103(a).

Applicants have amended the claims to overcome the rejection based upon Richter. Applicants claim now states that the composition is substantially free of nonoxidzable (fading) colorants. Applicants have hereby overcome the rejection based on Richter and earnestly solicit the Examiner to allow the claims.

Summary

It is respectfully submitted that each of the pending claims is in condition for allowance, and notification to that effect is kindly requested. The Examiner is invited to contact the Applicants' primary attorney-of-record, Amy Hoffman, at (651) 795-5852, if it is believed that prosecution of this application may be assisted thereby.

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